

Man

THE BLUNDERS
OF THE
DOMINION GOVERNMENT

IN CONNECTION WITH
THE NORTH WEST TERRITORY.

A SPEECH,

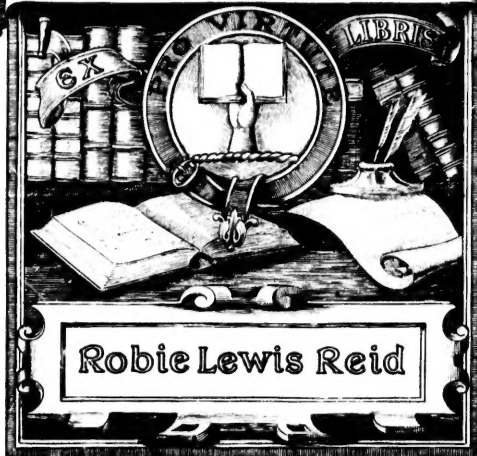
Delivered by D. MILLS, Esq., M. P. for Bothwell, at

LONDON,

JANUARY 17TH, 1871.

PRINTED AT THE ADVERTISER STEAM JOB OFFICE, LONDON, ONT.

For him was lever have at hys beddes heed
 Twenty bokes, clad in blak or reed,
 Of Aristotle and hys philosophye,
 Than robes riche, or fithele, or gay sautrye.



Robie Lewis Reid

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MR. MILLS' SPEECH.

[From the London Advertiser.]

On Tuesday evening, Jan. 17th, Mr. Mills, Member for Bothwell in the House of Commons, delivered an address on the political aspect of the North West question, before the members of the Reform Association of this city, and other citizens. The lecturer was introduced by Ald. Fysh. Mr. Mills, who was heartily received, said:

MR. CHAIRMAN AND GENTLEMEN:—It is impossible that I can feel otherwise than gratified at having an opportunity of speaking to you upon those important matters of public policy which during the existence of this the first Parliament of Canada have been brought under its attention by Sir John A. McDonald and his colleagues.

WHY HE OPPOSED THE GOVERNMENT.

I was elected as an opponent of the Government. I had long been a student of political theories, and political systems. I had formed my opinions of the conduct of public men in this country, and I declared most frankly, when I sought the suffrages of my constituents, that I had no confidence in the men who were then entrusted with the Government of Canada. I knew what their policy had been formerly, I knew the constitutional system under which they had for many years carried on the Government of united Canada and the policy which they had pursued, and I felt that however honest might be their intentions, that their political training had been of such a character as to unfit rather than to fit them for giving effect to the new system which had been adopted. Our public men had been trained under a system which placed no limitations upon the powers of parliament. They were about to carry on the government under a system with limitations both expressed and implied; a system with checks and guarantees against the powers conferred upon the local legislatures; and I felt that without the greatest vigilance on the part of the Opposition, these barriers would be broken down, and the provincial governments would be shorn of their powers

and of their independence. Under the circumstances, it was evident to my mind, that it would require quite as much care to prevent Parliament exceeding its powers as to induce it to use only for the public good those functions with which it was entrusted. I said at the time of my election that it was my strong conviction that under the policy of the present ministry we would be drawn in the direction of a legislative union, until provincial duties would be usurped by the Parliament of Canada, giving rise to sectional issues such as existed in old Canada before the adoption of the federal constitution. (Hear, hear.)

DEFENSE OF THE FEDERAL SYSTEM.

I know, sir, what reply to this statement will occur to those gentlemen who support the ministry because they are nominally of the same party, who support them because of the prejudices of education, and not from convictions the result of laborious research and careful reflection. They will ask, who is more competent to give effect to the new system than the gentlemen who were its authors? But let me ask them, are our present ministers the creators of this new system? Is it a system so thought out and elaborated by them that they are more likely to understand it than any one else? They themselves can make no pretensions of this sort. We know they looked abroad and found it already in existence. We know in what respects they departed from the original, a departure in one or two instances founded upon an error in history, in law, and in political philosophy. We know what is meant by a federal system of government. We know who were the modern founders of that system, and I say deliberately, nothing done by the Premier or by any of his colleagues indicates in him or in any of them a peculiar fitness for building up, upon this continent, a new nationality upon a federal basis. We know, too, that the various colonies now embraced within the Dominion of Canada were possessed of powers of self-government which they never could have been induced to abandon. Whatever then might have been the views of the Premier and of others, as to the relative merits

encroachment upon

of a legislative union and a federal union, I think it must have been evident to every one who had fully considered the subject, that a legislative union was excluded by our previous condition from the domain of practical politics. I do not hesitate to say that it has always been my firm conviction that the form of union which was the only practicable one, is also the one which is theoretically the most perfect. And if a federal union does not work well in this country, it will not be the fault of the system, but the fault of those who are entrusted with its management. (Cheers). There is scarcely an objection which can be made against the existence of a local government for each province which will not apply equally well against any colony having an autonomy of its own. If it could be shown that the powers of the Local Legislatures ought to be merged into those of the Parliament of Canada, it could by the same process of reasoning be shown as conclusively, that all the powers thus centered in the Parliament of Canada ought to be transferred to the Parliament of Great Britain and Ireland; that Colonial Legislatures ought to be abolished, and representation had only in that one great representative assembly of the Empire. The facts have always borne their testimony against any such theory. Men without any preconceived opinions as to systems, in seeking to administer justice and promote the general welfare of a community, are influenced by their external circumstances, or by some principle having its foundations laid deep in the human mind. That which is factitious is gradually eliminated; that which is necessitated by a particular state of society passes away with the condition of society which caused it; and that alone can be permanent among a progressive people which forms a part of an ideally perfect system of government. (Hear.)

If you ask yourselves the question how came there to be several British colonies in North America, instead of one great dependency, you will, I think find it to be this:—that in new communities, local and municipal matters are those of the greatest consequence, and occupy the chief place in popular estimation. The principles involved in legislation and government are then few and simple; and as means of communication must exist between neighbors before great thoroughfares to distant settlements can be created or made available; so municipal legislation and government must have made a considerable progress towards maturity, before questions of a larger or more comprehensive character in the art or in the science of government attract public attention, or can be advantageously dealt with. As industry removes the barriers which separate neighborhoods, and merges many isolated settlements into one; so distant communities having no interests in common,

and no commercial intercourse, and which are therefore advantageously made distinct provinces in the beginning, gradually increase in population and wealth, until new interests spring up of a more comprehensive character, necessitating the existence of some new power to whose oversight these general interests may be confided. Thus it has ever been with our race. Law and government are not things which have served as strait jackets to the English speaking world. They are the outcome of the race—an index of its vicissitudes and of its progress. Changes in systems of Government are seldom more than adjustments of the government to some new phase in the political life of the people who are individually subject to it, but of whom in the aggregate government is a necessary incident. Looking, then, at the history of our race, we may safely affirm that nobody can legislate for a people successfully unless the people generally sympathize with them in the work which they have undertaken to perform, and it is because this is so that no large territory can ever be embraced in one sovereignty under the representative system without local governments for local purposes. (Hear.) The whole history of the world shows that freedom has no home under a consolidated government. (Hear.) Men deserving the name of statesmen perceive that local jealousies drive out of the arena of public discussion great questions of state policy, and seeing their nation in a state of disintegration it is not surprising that liberty is sacrificed to restore order. The territory east of the Mississippi, between Maine and the Gulf of Mexico, when it formed a part of the British Empire, formed not one colony, but thirteen, and the autonomies thus created still remain. In British North America, before the federal system was introduced, we had seven provinces; and had we not adopted the principle of federation we would have had a still larger number. If you look at South Africa and Australia, you see a similar condition of things. Now, it may be said that it would be cheaper and simpler to have but one great colony in each of these vast territories. I don't think so. It is, for the reasons I have mentioned, impracticable; and if it was practicable it would, I am certain, be found to work most unsatisfactorily. Before the establishment of municipal institutions, with powers of taxation for municipal purposes, we all know that gross abuses in the government of the provinces existed which called loudly for correction; but the friends of reform found their efforts frequently paralyzed by a threat to withhold the necessary aid to local improvements in those constituencies that condemned the policy of the executive council of the day. When municipal institutions were established, this power to control constituencies was taken away, and the elector instead

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of being compelled to choose between wrongs to be endured, obtained the power to deal with each according to their convictions. *And let me here say, in passing, that with the large surplus at present in the hands of the Government of Ontario, the people should take care that an attempt may not be successfully made to restore a condition of things unknown in this province for thirty years.* (Hear.) We all recognize the immense strides taken by this country in the direction of efficient popular government when municipal institutions were secured; and it must be equally evident to every one who observed the difficulties that grew up between Ontario and Quebec in consequence of questions peculiar to each having to be dealt with in a common Legislature that we had reached a time in our growth when federation was necessary to our wellbeing. Now to abolish local governments and to establish one consolidated government for British North America, would be in some measure a retrogressive step. It would revive our former difficulties on an enlarged scale. It would be frequently impossible to obtain any expression of opinion at an election upon general public questions of vital consequence because of those of a local character which would constantly intervene. One section of the country would be arrayed against another section; geographical parties would be formed; and the very attempt to create a strong and compact nation would result in a local and disorganized one; because instead of placing under the oversight of a general government only those common interests which are elements of cohesion, it would place there those of a local character, which, because they are local, become elements of repulsion.

If any one should seriously propose to you to take from Ontario the control over her own local affairs, and bestow the election of her legislature upon the people of some other province, say Quebec, and upon you the election of their legislature, you would certainly think him mad. You would at once see that you would have no influence in the conduct of your own affairs, and the mischief would be further increased in consequence of the general ignorance of the wants of your province on the part of those to whom its interests had been entrusted. Wrong might be done, but how could it be remedied when those who elected the legislature did not know it to be such, and were far away from the place in which the mischief was felt? The governed would exercise no control over the government, and whether it was sustained or defeated would in no way be dependent upon the policy of the government within the province for which they legislated. This much is so apparent that it needs only to be stated to secure assent. Now the objection to a legislative union of the Provinces is this, that it would go a long way

to establish a state of things like this. It is true it would not deprive your representatives of a voice in your local affairs, but it would make them a minority of the body that controlled and regulated them, and the larger the number of provinces embraced the less their influence would become. I am sure no one who hears me will believe for a moment that Prince Edward's Island would consent to surrender her local affairs to a parliament of two hundred members in which she had but five. And if a wrong was done her by such a body how could she by a popular election redress the wrong about which no one beyond the Island felt any interest? It is not necessary that I should discuss this matter further. What I have said is sufficient to show you that each province was an organic centre growing in wealth, in population, and in the complexity of its relations until those ligaments were formed between the different provinces which fitted them for a political union. It is also sufficient to show you that in the normal growth of the colonies, a federal government is not formed by breaking a great community into fragments, but by the union of distinct political communities as such, making them one people by law so far only as they are one people in fact, leaving to the local government of each province perfect freedom to deal with all local matters in consonance with the genius and wishes of the people. We have not erred, then, in seeking to unite all British North America upon the "Federal principle." It is the only avenue through which we can pass to political importance and material prosperity. (Hear.) I felt it necessary to make these preliminary observations, lest the faults of the administration should be charged against the system which has been adopted. (Hear.)

INCOMPETENCE OF THE MINISTRY.

There never was in any country a more splendid opportunity for a Government to achieve success in the conduct of public affairs. (Hear.) There were vast territories and important provinces occupied by hardy and enterprising people to be annexed. This was the policy of the Imperial Parliament. It was also the policy of the Opposition in Canada. They were supported by an overwhelming majority, loyal—yes, I may go further, and say subservient to them, and ready to follow wherever ministers might lead; and what have they done? There never was a Government which more miserably failed. (Hear.) They have increased the public burdens enormously without a prospect of a fair return; they have tampered with the banks; they have sought to destroy the independence of Parliament to make their majority secure; they have expressed their determination to disfranchise at least one fourth of the electors in Prince Edward Island and Newfoundland, should these Provinces enter the

union; they have claimed a right to exercise judicial superiority over the highest provincial courts in the construction of provincial laws; they have claimed the power to grant the public revenues to purposes that are beyond their control; they have wantonly violated the constitution and outraged public sentiment in dealing with the North West Territory; so that to-day, in every outlying province in which their policy is known, they have made the people hostile to the union. (Hear.) These are the charges, which, after a trial of three years, may be justly brought against the administration. (Hear.)

ACQUISITION OF THE TERRITORY.

It is my purpose to-night to deal principally with the topic which has for the past year occupied the chief place in the public mind—the acquisition and government of the North West Territory and Rupert's Land, and I trust I shall be able to show you that all the difficulties and all the delay connected with the acquisition of those Territories arose from the want of industry, the want knowledge, and the want of capacity on the part of the administration. (Cheers.) The position of those Territories was peculiar, and in order that you may fully understand what has been done—in order that you may be enabled to fairly judge for yourselves as to the wisdom of the policy of the Canadian Government, and of the justice of what I may say with regard to that policy, it will be necessary for me to state to you somewhat fully the claims and pretensions of the Hudson's Bay Company to that great region of the earth over which they for two hundred years exercised dominion by authority of Royal Charter, and the grounds upon which Canada disputed the pretensions of this Company.

CHARTER OF THE HUDSON'S BAY COMPANY.

The validity of the H.B.Co.'s charter was formerly made the subject of discussion in this country and in England, and more than once it was proposed to have the question argued before the Judicial Committee of the Privy Council. But as the H. B. Company always expressed their readiness to surrender all or any portion of the territory which might be suitable for colonization, no one pressed for a judicial decision which it might require a long time to obtain, and which was likely to be expensive as well as protracted.

FORMER POSITION OF QUEBEC.

It was, too, extremely doubtful whether the acquisition was really desired by any Government before the scheme for the federation of the provinces was agreed to. It is notorious that many public men in what is now the Province of Quebec, dreading the increase of western representation under a legislative union, were hostile to any extension of Canada to the westward; and it was not until a ministry was formed for the

purpose of settling the difficulties which had grown up between the two sections of old Canada that this hostility ceased.

POLICY OF CANADA MINISTRY IN 1865.

In the year 1865 the Canadian delegates informed the Colonial Secretary of their willingness to grant a reasonable compensation in order to get immediate possession of the Territories, believing that it would be more advantageous to do so than to be kept for years out of the Territories by contesting the Company's claims before a judicial tribunal. Now I have no hesitation in saying that I think that was a wise determination. (Hear.) I think so, first, because, whatever might have been shown to have been the boundaries of Canada, while Canada was still a territory of France, I have no doubt whatever that any judicial body having to adjudicate upon the claims of the Hudson's Bay Company would have held that Canada could make no valid claim to any territory lying beyond her western boundary as fixed by the Imperial Act of 1774, which is a meridian line drawn due north from the head waters of the Mississippi, so that the matter in dispute would have been between the Crown and the Company. Again; so little was known at the time of the conquest of Canada of the North West Territory, and so long have the Company been in possession, and so considerable are the powers granted beyond the mere rights of property, that I think it would have been a somewhat hazardous undertaking to bring those rights in controversy before a court; while as to Rupert's land, I think there cannot be a doubt but that their title would have been confirmed.

OTHER CHARTERS OF THE SAME KIND.

The charter granted to the Hudson's Bay Company was not without precedent. There were many others of the same character. The large regions granted to the London Company, to the Plymouth Company, to the Duke of York, to Sir George Carteret, to William Penn, and to others, embracing as they did the whole country from the Atlantic to the Mississippi, and from the St. Lawrence to the boundaries of Florida, by the Crown, along with a grant of powers of government similar to the grant made to the Hudson's Bay Company, shows what was the practice, and now to have questioned successfully the validity of the Hudson Bay Company's charter would be to question successfully the titles to property from New York to Georgia. Apart from the disinclination to overturn imperfect rights of long standing, men of the very highest authority, such as Story, Greenleaf, and Washburne, in the United States, and Cruise and Scarlett, in England, have not hesitated to give it as their opinion that these charters were valid in law. (Hear.) It is true that the monopoly created by this charter was apparently

in contravention of a statute of James the First; but it is equally true that the subsequent conduct of the Imperial Parliament shows that it was not intended to extend that law to the colonies and plantations of the empire.

WHY THESE CHARTERS WERE GRANTED BY THE CROWN.

These great charters were granted by the House of Stuart. They were granted during a revolutionary period. England under magna charta had already seen one great change. From the days of John to those of Edward the Fourth, England was ruled by the great Barons. Their ascendancy ended with the fall of Warwick and the wars of York and Lancaster. Then came the period of the dominancy of the crown. By the time of the Stuarts there had from various causes grown up another power destined to overshadow that of the nobility and the crown, and against this the House of Stuart waged a desperate war. When they granted such a large portion of this continent to their creatures, it was intended to fix the roots of aristocratic institutions deep into the soil of the North American continent. The struggles between the crown and the aristocracy had long before ceased. They were now united, and were striving in a variety of ways to restrain the growing power of the people. Had they succeeded in their designs towards this continent, there would have been a few great lords' proprietors and a numerous tenantry, something less than freemen and something more than serfs. Such institutions were at that time showing obvious signs of decay in England. The great religious movements there had been productive of fierce controversies in which the Stuart kings took sides. Disabilities of various kinds, persecutions and petty annoyances, stimulated the emigration of a population hostile to the Government. The physical circumstances of the colonists, not less than their own strong convictions, fought against the fell designs of the tyrants; and except in this hyperborean region, which lay far beyond the confines of civilization, they saw the basis of their cherished vision melt away like the snow which falls upon the sea. (Cheers.) It is not necessary that I should say more of these great proprietorships. They indicate the kind of legacy which that proud cruel house sought to bestow upon the English speaking population of America. They show that the Stuarts vainly sought to do against the cause of freedom in America what they vainly strove to do against it in Britain. With the dominion of the Hudson's Bay Company passed away the last remaining monument of their crimes. Its chilling shadow no longer prevents the growth of our Great West. (Hear).

CHARACTER OF THE COMPANY'S CLAIMS.

The great proprietary of the Company was not merely an estate, but a colony, which they were authorized to govern. Their pretensions were not only admitted by several administrations, but by several parliaments. It is clear, then, that when our present constitution was established, the English Ministry were not in a position to act upon the assumption that a Company which by the crown, and by parliament, had been frequently treated as the lord proprietor of an extensive territory for two hundred years, could be treated as a mere trespasser without authority, and could transfer these territories to Canada without its consent. (Hear). The British North America Act provided for the transfer of these territories to Canada by an Order in Council, but before the Queen could so transfer these territories, it was necessary that the Company should surrender to the Crown the rights acquired by the charter. An Act was passed by the Imperial Parliament to enable Her Majesty to accept the surrender. In this and in every other thing done by the English Government, Ministers acted in consonance with the understanding arrived at with the Canadian delegates in 1865. In providing for the admission of the outlying provinces and territories, in the manner set forth in the Act of Federation, the Imperial Parliament wished to leave the matter as much as possible to the people to be affected, and the only reason for an order in council at all seems to have been to make the compact agreed upon a law above and binding upon the contracting parties, thereby retaining the federal principle, and extending it to the newly acquired provinces and territories. It is too plain to require argument to make it evident that as the Territories were in the hands of the H. B. Company, both as to proprietary rights and government, that they must be surrendered to the Crown before they could be transferred to Canada. It is equally plain that the terms and conditions referred to in the Act, were the terms and conditions upon which the surrender was to be made by the Crown to Canada, and not by the Company to the Crown. Legally, the Canadian Government could not be a party to the negotiations until the surrender was made to the Crown; yet, practically, it was made a party because the Imperial Government were most anxious that the terms upon which the Company surrendered its rights to the Crown should be such as the Government of Canada could accept.

CHANGE OF POLICY BY THE CANADIAN MINISTRY.

Now let me ask you, did the Canadian Government adhere to the course marked out in 1865? So far from doing so, they asked the Imperial Government to transfer the

Territories without any terms and conditions being set forth, leaving the Company to such rights as they might be able to establish in a Canadian court of justice. Isay without any terms and conditions, because to say that property should not be taken from the owners, but that they should have a right to the protection of the courts, could scarcely be considered necessary to the due protection of any one in the British empire. (Hear.) How any class of men who had any knowledge of the subject, could have entertained such a policy it is, indeed, difficult to conceive, and how the first law officer of the Crown in Canada could have been a party to such a policy is still more wonderful. (Hear.)

WHY THE POLICY WAS CHANGED.

Did he in this matter assent to a course that he must have known could end in nothing, at the earnest solicitation of his colleagues who had charge of the matter? It would seem so; and if I were to tell you why I think the original determination was departed from I would say it was because Mr. Brown, who was then a minister of the Crown, had become a party to the principle of compensation in 1865. If now the Imperial Government, after a lapse of nearly 200 years, after the passing of numerous acts of parliament recognizing the pretensions of the Company, and after proceeding upon the assumption that the charter of the Company was valid, could have been induced to ignore their past acts, and transfer the Territory so long in the possession of the Company to Canada without compensation, and without any formal surrender by the Company of the grant from the Crown, it would have been at once said that Mr. Brown in 1865 had betrayed the interests of Canada in acquiring a great country by right our own. (Hear, hear.) And when we all know to what extent the Reform party are sought to be made by their opponents responsible for everything said by the *Globe*, and for everything done by its proprietor, it is not difficult to predict with a good deal of certainty what would have been said of us by the ministry and their supporters had ministers succeeded. (Hear.) For although the principle of compensation was assented to by these same ministers in 1865, it cannot for one moment be doubted that had they succeeded they would have told us they did not really approve of what had been then done. (Hear.) They would have said that they yielded from good nature to the mistaken policy of a colleague; that they admitted technically their responsibility; but that as a matter of fact they did not approve of such a course, and what they had since done was sufficient to show that they never intended that the interests of the country should suffer. As might have been expected, the Hudson's Bay Company refused to assent to such an arrangement. They claimed not

only a fee in the soil, but a grant by the Crown of powers of government and certain special privileges as well, and it was impossible to refer their claims to a Canadian court of justice except by first taking from them without due process of law a portion of what they claimed. The nature of the case forbid the Imperial Government assenting to the course the Canadian Government wished to pursue. Had such a course been entertained by the Imperial Government they would have been at once met, as I have no doubt they were met when the Hudson's Bay Company saw that the policy of the Canadian Government was sustained by the Canadian Parliament, by the declaration on the part of the Company of their political rights legally vested in them by their charter. (Hear.) They would have said, "If our claims are well founded in law, you have no power to do what you propose. We are ready to defend our rights before a judicial tribunal competent to decide. Until they are judicially passed upon, you the Government of England are bound to follow the opinions of Parliament, which has recognized our rights. If Canada thinks our claims bad, why has she not compelled us to defend them before the only tribunal competent to set them aside if bad." The Imperial Government, very properly, refused to sit in judgment upon the claims of the Company. They said to the Canadian authorities, you cannot respect such rights as the Company may establish, for among them is a right to govern the country, which you ask shall be absolutely granted to you; a right which may be of the greatest consequence to the Company as ancillary to the profitable enjoyment of their property. Had the course marked out by the Canadian ministry in 1867 been possible, it is clear that a large portion of the Company's rights would have been taken away. Its rights of government would have been gone forever, and the case it would have had to submit to any judicial body in Canada would have been trimmed down by a simple order in Council to half its original proportions.

DELAY CONSEQUENT UPON THIS CHANGE OF POLICY.

Well, sir, the result of this change of policy was that we were put back more than two years in acquiring possession of the Territories, and the ministry were then compelled to begin their negotiations at the point they were left by the delegates in 1865. (Hear.) There were, as I have intimated, but two courses open to them, either to contest the validity of the Hudson's Bay Company's claims before the Judicial Committee of the Privy Council, or to purchase the Company's rights through the agency of the Crown. At first they did neither. And the course adopted in the beginning wore so much the appearance of petty knavery that it is a matter of astonishment that any Gov-

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ernment could have entertained it. It had the effect of placing the Company and their factors in opposition to Canada. Surveyors were sent into the North-West Territory to map out the land and to make roads; no effort was made to come to an understanding with the people, or to make the intentions of Canada known, but a course was adopted which made it possible for the agents of the Company to arouse the fiercest hostility against Canada and Canadians.

MINISTERS OBLIGED TO RETURN TO THE POLICY OF 1865.

Having completely failed in their new policy, the next step taken by ministers was to return to the principle of compensation, and the Company agreed to surrender their rights to the Crown upon the payment of £300,000 sterling, retaining certain lands about their forts, and one twentieth of the lands within the fertile belt.

PROVISIONS MADE FOR GOVERNING THE COUNTRY.

Now it will not be forgotten that the government, before the transfer took place, called upon Parliament to provide temporarily for the Government of the North West Territory during the period that might elapse between the transfer to Canada and the next meeting of Parliament. The system provided was arbitrary and without any representative features. (Hear.) And here let me say it was objectionable to the old rulers in the Territory not because it gave very little authority to the territorial government, but ~~it was~~ because it in no way emanated from the people over whom it was to exercise that authority. It was not only an arbitrary creation, but the people saw that it was an outside creation; that they were to be put under the suttlers and camp-followers of the government at Ottawa. (Hear.)

HOPES OF THE WINTER PARTNERS.

About the time that negotiations were concluded for a transfer of the territory to Canada, application was made by the winter partners of the Company for a share of the money which was about to be paid by Canada. This was refused, and they were informed by Sir Stafford Northcote, that not being shareholders they were not entitled to any portion of the money to be received by the Company for the extinction of their rights, but as they were well acquainted with the country and were possessed of influence with its present population, they would no doubt be called upon to share in its government and would under the new regime hold positions quite as lucrative as any they held under the Company. They could scarcely in fairness demand any compensation from the Company when they were not likely to suffer by the change. Whether this matter was spoken of to Sir George E. Cartier and

Mr. McDougall, and whether they gave to Sir Stafford Northcote any assurance that the Government of Canada, in making provision for the Government of the North West, would not overlook the claims of these factors of the Company to their consideration, I will not pretend to say. The hopes awakened by a communication of this kind were of such a character as those which would naturally occur to the winter partners themselves. Let me here say that I don't maintain that they were great lovers of liberty who were ready to take up arms because a representative system of government was not at once established. But they believed they were entitled to share in the government of the country. They believed that if the entire government was arbitrarily created by the Government at Ottawa, that still it would be created from material found in the territory, and when they found that the entire government was about to be imported from abroad, it was not surprising that they were indignant; they believed that if representative government had been given them they would have held those places that they felt the Ottawa Government ought to have bestowed upon them, and which perhaps they would have been content to receive along with an arbitrary system. (Hear.)

THE WAY THEY AROUSED THE HALF BREEDS TO RESIST MACDOUGALL.

They were resolved to prevent the new government obtaining a foothold in the country. The people were asked how they liked being sold to Canada. They were told that Canada had always maintained that the Company had no valid claim to the Territory, and they were asked if they supposed the Canadian Government would respect titles to land obtained from such a source. They were asked, "Are you so simple as not to know what the presence of these surveyors mean. They will soon have their satraps here to govern all of us." After the appointment of McDougall to the governorship, they said more. The French half-breeds were informed that the enemy of their religion and their race was coming to rule them. The whole settlement was put into a state of feverish excitement. No one can have failed to observe that, with the exception of the few Canadian settlers in the Territory, the whole population assumed an attitude of active or passive hostility to Canadian authority, and Protestant no less than Roman Catholic demanded security before submitting to Canadian rule. (Hear.) The French half-breeds, led on by Rieli, organized resistance, and the Territory not having been transferred to Canada, they did not feel that they were either traitors or rebels in resisting a government that had as yet no authority in fact or in law; and they knew they had the moral support of Governor McFavish and other officers of the Company. Rieli, I doubt not, intended to bring

about annexation to the United States if he could, but in this he completely failed. What the French half-breeds wanted was security, not a change of allegiance. (Hear.) When it began to be believed by the French half-breeds that Canada had no designs against their property, they were ready to disband, but the miscreants who had assumed the direction of affairs intimidated them by the cruel murder of Scott. I will not say that there is any member of the Government who favored Riel's escape. I will not say there is one who would not favor his punishment if taken. There are imperfections enough in human nature, without bringing forward any charge so disgraceful. (Hear.) The fault is in pursuing a policy which not only rendered what happened possible, but inevitable. (Cheers.) The half-breeds may be an ignorant people, but they are at the same time a people upon whom the restraints of government never pressed; and being at once both ignorant and free, it was of the utmost consequence that it should be obvious to them that their rights would be respected and their general welfare promoted. (Hear.)

DISREGARD OF THE FEELING OF THE PEOPLE IN THE NORTHWEST.

But instead of this the Government was about to have been established for the benefit of those who were to govern. Those who had humbled themselves at Ottawa were to have been exalted at Fort Garry (hear); and as a reward for parliamentary dependence at home, the faithful were to have been raised above want abroad. (Hear.) There is no one of any nationality or of any religion in this province who defends the murder of Scott. But who does not see that folly would have gone unpunished had there been no resistance? The Government of Canada had grossly failed in its duty; is it surprising that the consequences of that failure followed? (Hear.) It is a necessary law of social well-being that the wrongs done by those whom we permit to exercise authority injuriously affect ourselves (hear), and we are thus made guardians of each other's rights.

I have so far considered the general policy of the Government with reference to the acquisition and provisional government of the Territories. I shall now proceed to consider how far the course pursued is consistent with the British North America Act, and I trust that I shall be able to state my views with sufficient clearness to enable you to fully understand the grounds upon which I object to the policy which has been pursued; for I am sure, sir, this assembly is far too intelligent to accept implicitly any proposition which is not a mere matter of fact, but of law and reason, upon a simple assertion of mine.

UNCONSTITUTIONALITY OF THE COURSE ADOPTED.

By the B. N. A. Act it is provided that it shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honorable Privy Council, on addresses from the Houses of the Parliament of Canada, to admit Rupert's Land and the North Western Territory, or either of them upon the terms and conditions in the addresses expressed and as the Queen thinks fit to approve, subject to the provisions of the B. N. A. Act, and the provisions in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland. In the case of the admission of the Colonies having a representative government the address must be adopted by the Houses of the provincial legislatures as well. Now it is important to understand what is meant by "terms and conditions." It is quite clear that so far as the provinces are considered, by terms and conditions is meant a subsidy, a distribution of powers, and a local constitution, and it would be difficult to understand how it was that a provision of the Imperial Act could mean one thing when applied to the provinces, and another and very different thing when applied to the territories. WHAT IS ESSENTIAL TO A FEDERAL SYSTEM.

It is of the essence of the federal system that the local constitutions should not be subject to change or alteration by the federal government. (Hear.) There can be no federation if the so called federal authority is the source from which the local authority is derived. (Hear.) The very object of an Order in Council was to give an Imperial origin to the local constitutions. (Hear.) The Parliament of Canada might have provided for a territorial government; it might have provided that its powers should be derived from ~~that~~; it might have provided that it should become a Province of the Dominion upon certain conditions set forth; and all these provisions could have been made a part of the Imperial Act by an Order in Council. But nothing of the kind was done. The legislation has been of a kind unauthorized by the organic law, contrary to the principles of the federal system, and in contravention of some of the express provisions of the Imperial Act, and such as Her Majesty is inhibited from embracing in any Order in Council. It is quite clear that what could not have been embraced in an Order in Council cannot subsequently be done by any authority which an Order in Council can confer.

I say, then, first, that no plan of government having been set forth in the Order in Council, as the law required, we effectually closed against ourselves the way open to the admission of any portion of the North West to the Union by our own Act; and all we had power to do was to provide for it a colonial government. The Act of federation did not give to the Government of Canada power

*the Parliament of Canada until it
became a Province of the Union -*

PURCHASED 6th Oct 1919
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PROVISIONS EXPRESSLY PROHIBITED BY THE
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resentation according to population shall
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the Union. Manitoba is by the provi-
sion entitled to one representative in the
Senate of Canada & in the Union. She is
entitled to one vote. (Hear.) No provision
is made by the constitution for provincial
representation in the Senate for any western
province or territory. The circumstances of
James Edward's Island and Newfoundland
were known, and they were provided for;
but no doubt definite could be known of the
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upon local authority. (Cheese.) Leaving
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(Loud cheer.)

Mr. Mills then alluded in eloquent terms
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educating the young men of this country in
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contends, by giving them the franchise.

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to create local governments. It created them. It gave to them the same high origin that the central government has, that they might not be subject to its encroachment, and it provided for the future admissions by making the Queen's Order in Council in that behalf a part of the Act. Now look at Manitoba. There is not an Act it can pass which may not be overridden by Dominion legislation. (Hear.) It holds its powers by the sufferance of the Canadian Parliament. (Hear.) If we were to pass a Bill at Ottawa, changing the law of succession, it would be invalid in Ontario, because such legislation belongs to the Legislature of Ontario; but in Manitoba it would be valid, because the Local Legislature can only exercise such powers as the Parliament of Canada may choose to allow it to exercise. (Hear.)

HOW THE VALIDITY OF THE MANITOBA ACT MAY BE TESTED.

Now there is this simple rule by which the validity of the Manitoba constitution may be tested. Does it confer any local authority which the Parliament of Canada may not take away? If it does not, it is not federally united to Canada. It is not legally united, for a federal union alone is provided for. (Hear.)

PROVISIONS EXPRESSLY PROHIBITED BY THE B. N. A. ACT.

But this is not all. I might pass by the general question as to the power of Canada to admit a province into the Union, and call your attention to the provisions of the B. N. A. Act, which declares the principle of representation according to population shall not be departed from in extending the Union. Manitoba is by the provision entitled to one representative in the House of Commons if in the Union. She is about to send four. (Hear.) No provision was made by the constitution for provincial representation in the Senate for any western province or territory. The circumstances of Prince Edward's Island and Newfoundland were known, and they were provided for; but as nothing definite could be known of the western provinces and territories, this matter of senatorial representation was left to be provided for by further Imperial legislation, when the necessity should arise. The Government, without any authority, provided for the appointment of three. (Hear.) If you look at the act of federation, you will see

that that body is intended to represent the Provinces in the Parliament of Canada, and that their representation is in proportion to their importance. Now if the Parliament of Canada can appoint three they can appoint thirty. (Hear.) The Senate could be swamped by appointments professedly made for a single province. (Hear.) It is out of the question that there can be a limitation of the powers of appointment for one Province, and no limitation as to another. (Hear.) Well, sir, the question may be asked, what of all this? what practical mischief has it engendered? I might content myself with saying that we ought never to be indifferent to an illegal course because we do not foresee all the mischiefs which are likely to flow from it. (Hear.) Those practical politicians who can see no wrong in a government violating the law unless it is accompanied by some great calamity, may think this a trifling matter. I don't think it so. Who could have predicted the uses of electricity upon its discovery. "Those men," says Franklin, "who are impatiently asking what evils are to flow from a wrong principle of action are in point of sense on a level with those who are asking about the utility of infants, forgetting they are to be the men and women of the future." But, sir, I will endeavor to answer the enquiry. I say it engendered the disturbance in the territory, it engendered the expense of the expedition, and it has laid the basis for active federal encroachment upon local authority. (Cheers.) Leaving out of view every other matter, this alone is sufficient to justify a general public judgment condemnatory of the government. (Loud cheers.)

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Mr. Mills was loudly applauded on resuming his seat. Ald. Campbell moved a vote of thanks for the eloquent and instructive address, which was duly seconded, carried unanimously, and appropriately responded to.

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